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*Exempt from filing fees pursuant to  
Government Code section 6103*

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF LOS ANGELES

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14 **SAFARI CLUB INTERNATIONAL;  
CALIFORNIA RIFLE & PISTOL  
15 ASSOCIATION, INCORPORATED;  
CALIFORNIA BOWMEN  
16 HUNTERS/STATE ARCHERY  
ASSOCIATION; HOWL FOR WILDLIFE,  
17 INC.; CALIFORNIA DEER  
ASSOCIATION; and COALITION TO  
18 SAVE CATALINA ISLAND DEER,**

19 Petitioners,

20 v.

21 **CALIFORNIA DEPARTMENT OF FISH  
AND WILDLIFE; and DOES 1-10,**

22 Respondents,

23 **CATALINA ISLAND CONSERVANCY,**

24 Real Party in Interest.  
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Case No. 26STCP00987

**MEMORANDUM IN SUPPORT OF  
RESPONDENT'S DEMURRER TO  
PETITIONERS' PETITION FOR WRIT  
OF MANDATE**

Dept: 836 (formerly 86)  
Judge: The Honorable Curtis A. Kin  
Hearing: June 11, 2026  
Time: 1:30 p.m.

Trial Date: Not set  
Action Filed: March 10, 2026

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**TABLE OF CONTENTS**

	<b>Page</b>
Introduction .....	5
Factual Background .....	5
Standard for Demurrer .....	7
Argument .....	7
I.    CEQA’s 35-Day Statute of Limitations – The Only Statute of Limitations Applicable Here – Bars the Petition.....	8
II.   The Demurrer Should be Sustained Without Leave to Amend.....	10
III.  There is no Relief Available Under CCP Section 473.....	10
Conclusion .....	11

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
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21  
22  
23  
24  
25  
26  
27  
28

**Page**

**CASES**

*Alliance for the Protection of the Auburn Community Environment v. County of Placer*  
(2013) 215 Cal.App.4th 25 (*Alliance*) ..... 10, 11

*Blank v. Kirwan*  
(1985) 39 Cal.3d 311 ..... 7

*Coalition for an Equitable Westlake/MacArthur Park v. City of L.A.*  
(2020) 47 Cal.App.5th 368 ..... 7

*Coalition for Clean Air v. City of Visalia*  
(2012) 209 Cal.App.4th 408 (*Coalition for Clean Air*) ..... 7

*Cochran v. Cochran*  
(1998) 65 Cal.App.4th 488 ..... 7

*Com. for Sound Water & Land Development v. City of Seaside*  
(2022) 79 Cal.App.5th 389 ..... 9

*Dobarro v. Kim*  
(2025) 116 Cal.App.5th 158 ..... 10

*Edgington v. County of San Diego*  
(1981) 118 Cal.App.3d 39..... 10

*Herron v. San Diego Unified Port Dist.*  
(2025) 109 Cal.App.5th 1 ..... 7

*Maynard v. Brandon*  
(2005) 36 Cal.4th 364 ..... 11

*Rakestraw v. California Physicians’ Service*  
(2000) 81 Cal.App.4th 39 ..... 7

*Smith v. City & County of San Francisco*  
(1997) 68 Cal.App.3d 227..... 10

*Stockton Citizens for Sensible Planning v. City of Stockton*  
(2010) 48 Cal.4th 481 (*Stockton*) ..... 8, 9, 10

*Tulare Lake Canal Co. v. Stratford Public Utility Dist.*  
(2023) 92 Cal.App.5th 380 ..... 8

1  
2  
3  
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5  
6  
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**TABLE OF AUTHORITIES**  
**(continued)**

	<b><u>Page</u></b>
<i>United States v. Locke</i> (1985) 471 U.S. 84 ( <i>Locke</i> ).....	8, 10
<b>STATUTES</b>	
Code of Civil Procedure	
§ 430.10(e) .....	7
§ 430.30(a) .....	7
§ 473.....	8, 10, 11
Public Resources Code	
§ 21080.56.....	5
<b>REGULATIONS</b>	
California Code of Regulations, Title 14	
§ 15000.....	6
§ 15061(d) .....	8
§ 15062.....	6
§ 15062(d) .....	8, 9
§ 15112(c)(2).....	8

1 **INTRODUCTION**

2 Respondent California Department of Fish and Wildlife (Department), demurs to  
3 Petitioners Safari Club International, et al.’s (Petitioners) Petition for Writ of Mandate (Petition)  
4 that challenges Respondent’s decision to issue a Restoration Management Permit to the Catalina  
5 Island Conservancy (Conservancy) for the Conservancy’s Catalina Island Restoration Project  
6 (Project). Petitioners allege that the Department erred in determining that its issuance of a  
7 Restoration Management Permit to the Conservancy was statutorily exempt from California  
8 Environmental Quality Act (CEQA). Petitioners’ challenge, regardless of merit, however, was  
9 untimely filed one day too late. This deficiency cannot be rectified through amendment.  
10 Therefore, the Court should sustain this demurrer to the Petition, without leave to amend.

11 **FACTUAL BACKGROUND**

12 The Conservancy owns and manages the majority of land on Santa Catalina Island.  
13 (Petition ¶¶ 23-24, 42, Exh. E [First NOE], Exh. F [Second NOE].) As part of its management  
14 responsibilities, the Conservancy sought to undertake a multipronged project to restore native  
15 flora and fauna on the Island. The proposed restoration project included a controversial element to  
16 eradicate all non-native mule deer on the Island, as the Conservancy concluded that these non-  
17 native deer caused detrimental impacts to native flora and fauna. (*Ibid.*) In order to carry out its  
18 proposed restoration project, the Conservancy applied to the Department for what is known as a  
19 Restoration Management Permit (RMP). (*Ibid.*)

20 On January 28, 2026, the Department determined that the potential issuance of an RMP to  
21 the Conservancy was exempt from CEQA because the project “is exclusively to conserve, restore,  
22 protect, or enhance, and assist in the recovery of California native fish and wildlife, and the  
23 habitat upon which they depend; or is exclusively to restore or provide habitat for California  
24 native fish and wildlife.” (Pub. Resources Code, § 21080.56; Petition ¶ 46, Exh. E [First NOE],  
25 Exh. F [Second NOE].) This is known as the “Statutory Exemption for Restoration Projects”  
26 (SERP). The purpose of the Project is to benefit endemic species on Santa Catalina Island through  
27 a range of restoration activities, including, but not limited to, invasive plant control and  
28 management; native seed and plant collection; invasive plant program; island fox monitoring and

1 infectious disease surveillance; island-wide monitoring of vegetation and wildlife, and, as  
2 relevant here, removal of mule deer. These activities are designed to benefit island habitats and  
3 various plant and animal species endemic to Santa Catalina Island.

4 Pursuant to CEQA, the Department filed the First Notice of Exemption (First NOE) on  
5 January 28, 2026, with the State Clearinghouse. (Petition, ¶ 23.) On January 30, 2026, the  
6 Department approved and issued the RMP to the Conservancy. (Petition, ¶ 23.) After this  
7 approval, the Department filed the Second NOE pursuant to California Code of Regulations, title  
8 14, section 15062 (CEQA Guidelines [Cal. Code Regs, tit. 14, § 15000 et seq.]) on February 2,  
9 2026. (Petition, ¶ 23.)

10 Unhappy with the Department’s approval of the Project, on February 11, 2026, several of  
11 the Petitioners submitted written objections to the Department describing Petitioners’ perceived  
12 deficiencies with the Project. (Petition, ¶ 20.) Nearly a month later, on March 4, 2026, Petitioners  
13 sent, via U.S. Mail, a written notice of intent to commence the current action. (Petition, ¶ 19.) The  
14 notice indicated that Petitioners intended to bring suit to challenge the Department’s  
15 determination that the Project was exempt from CEQA under SERP.

16 Based on CEQA’s statute of limitations, Petitioners had 35 days from, at the latest, the  
17 Department’s filing of the Second NOE to file their suit. (CEQA Guidelines, § 15062 [“The filing  
18 of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations  
19 period on legal challenges to the agency’s decision that the project is exempt from CEQA”].)  
20 Because the Department filed the Second NOE on February 2, 2026, the latest possible day for  
21 Petitioners to file a CEQA lawsuit challenging the Second NOE was March 9, 2026. Although  
22 Petitioners had been put on notice twice, submitted objections, and provided a notice of intent to  
23 sue, Petitioners did not file their lawsuit until March 10, 2026, which was at least one day too  
24 late. Petitioners’ error, regardless of reason, resulted in an untimely filed Petition. Understanding  
25 the fatal error, on March 18, 2026, Petitioners filed a Notice of Motion and Motion to Conform  
26 Filing Date to Attempted Transmission Date or Other Appropriate Relief (Motion to Conform),  
27 asking this Court to backdate the filing date of their Petition to March 9, 2026. The Motion to  
28 Conform should be denied as the Department will argue in opposition to that motion; this

1 demurrer should be sustained based on Petitioners’ failure to file their Petition prior to the  
2 running of the statute of limitations.

### 3 STANDARD FOR DEMURRER

4 A respondent is allowed to test the legal sufficiency of a petition via a demurrer. (*Herron*  
5 *v. San Diego Unified Port Dist.* (2025) 109 Cal.App.5th 1, 6-7.) Code of Civil Procedure section  
6 430.30, subdivision (a) provides that “When any ground for objection to a complaint, cross-  
7 complaint, or answer appears on the face thereof ... the objection on that ground may be taken by  
8 a demurrer to the pleading.” For purposes of this provision, “[t]he statute of limitations is a  
9 ‘ground for objection to a complaint’ ... and therefore may be raised in a demurrer.” (*Coalition*  
10 *for Clean Air v. City of Visalia* (2012) 209 Cal.App.4th 408, 419 (*Coalition for Clean Air*), citing  
11 *Cochran v. Cochran* (1998) 65 Cal.App.4th 488, 493; see also Code Civ. Proc., § 430.10, subd.  
12 (e).)

13 In deciding a general demurrer, the court should (1) treat the demurrer as admitting all  
14 material facts properly pleaded, but not contentions, deductions, or conclusions of fact or law,  
15 (2) consider matters which may be judicially noticed, and (3) give the complaint a reasonable  
16 interpretation, reading it as a whole and its parts in their context. (*Blank v. Kirwan* (1985) 39  
17 Cal.3d 311, 318.) Within the context of CEQA, “for a demurrer based on the statute of limitations  
18 to be sustained, the untimeliness of the lawsuit must clearly and affirmatively appear on the face  
19 of the complaint and matters judicially noticed.” (*Coalition for Clean Air, supra*, 209 Cal.App.4th  
20 at p. 420.)

21 Where the defects in the petition are such that no further amendment of the petition could  
22 cure them, leave to amend should not be granted. (*Rakestraw v. California Physicians’ Service*  
23 (2000) 81 Cal.App.4th 39, 43.) The petitioner bears the burden of proving that there exists a  
24 reasonable possibility that defects could be cured by amendment. (*Ibid.*)

### 25 ARGUMENT

26 The Legislature has made clear that there are strict limits on the timeframe within which a  
27 project may be challenged under CEQA. (*Coalition for an Equitable Westlake/MacArthur Park v.*  
28 *City of L.A.* (2020) 47 Cal.App.5th 368, 378.) Here, Petitioners failed to timely bring their

1 challenge. This failure is not correctable through any process, under CEQA or otherwise, nor are  
2 Petitioners entitled to relief under Code of Civil Procedure section 473. Therefore, the Court  
3 should sustain this demurrer without leave to amend.

4 **I. CEQA’S 35-DAY STATUTE OF LIMITATIONS – THE ONLY STATUTE OF**  
5 **LIMITATIONS APPLICABLE HERE – BARS THE PETITION**

6 “[A] filing deadline cannot be complied with, substantially or otherwise, by filing late—  
7 even by one day.” (*United States v. Locke* (1985) 471 U.S. 84, 101 (*Locke*)). “[R]egardless of  
8 where the cutoff line is set, some individuals will always fall just on the other side of it,” and “if  
9 the concept of a filing deadline is to have any content, the deadline must be enforced.” (*Id.* at p.  
10 101.)

11 Once a lead agency determines that a project is subject to CEQA, it must then determine  
12 whether the project is exempt from CEQA. (*Tulare Lake Canal Co. v. Stratford Public Utility*  
13 *Dist.* (2023) 92 Cal.App.5th 380, 408.) Once a project is determined to be exempt, the lead  
14 agency may file a notice of exemption with the State Clearinghouse. (CEQA Guidelines, § 15061,  
15 subd. (d).) Challenges to exemption determinations must be filed within 35 days of an agency’s  
16 filing of a notice of exemption. (CEQA Guidelines, §§ 15062, subd. (d), 15112, subd. (c)(2).)  
17 Here, following the Department’s issuance of the RMP, the Department filed the Second NOE on  
18 February 2, 2026. Therefore, the applicable statute of limitations period was 35 days, and it ran  
19 on March 9, 2026.

20 The NOE “serves the public’s right, under CEQA, to be informed of, and to have a voice  
21 in, the process of evaluating the environmental issues surrounding a contemplated action or  
22 decision . . . . By the same token, such notification, provided in the form and manner specified by  
23 the statute, sufficiently advises interested persons of the action or decision so as to trigger the  
24 limitations period of lawsuits asserting that the agency has proceeded in violation of CEQA.”  
25 (*Stockton Citizens for Sensible Planning v. City of Stockton* (2010) 48 Cal.4th 481, 502  
26 (*Stockton*)). It is the Legislature’s intent that “claims of impropriety in the agency’s exemption  
27 determination may only be addressed in lawsuits commenced within 35 days after the agency  
28 properly files a notification of that determination, i.e., an NOE.” (*Stockton, supra*, 48 Cal.4th at

1 p. 502.) Case law is clear that “CEQA ‘provides “*unusually short*” limitations periods [citation]  
2 after which persons may no longer mount legal challenges, however meritorious, to actions taken  
3 under the Act’s auspices.’” (*Com. for Sound Water & Land Development v. City of Seaside*  
4 (2022) 79 Cal.App.5th 389, 400, italics added, quoting *Stockton, supra*, 48 Cal.4th at p. 488.)  
5 Simply put, the “filing and posting of . . . a notice alerts the public that any lawsuit to attack the  
6 noticed action . . . must be mounted *immediately*.” (*Stockton, supra*, 48 Cal.4th at p. 488, italics  
7 added.)

8           Although not legally relevant to this demurrer, for years Petitioners have been deeply  
9 involved in opposing the Conservancy’s planned restoration project. Starting soon after the  
10 Conservancy announced its plans to the public in 2023, and for months prior to the Department  
11 issuing the RMP and filing the NOEs, Petitioners were aware that the Conservancy was seeking  
12 the necessary authorization from the Department for the Project. At least one of the entities within  
13 the Petitioners’ coalition, Save Catalina Island Deer, began to organize “sustained opposition” to  
14 the restoration project as early as October 2023. (Petition, ¶ 35.) Additionally, Petitioners  
15 describe a multi-year timeline in which various members of the coalition provided objection  
16 letters to the Department; submitted questions in advance of the Conservancy’s January 31, 2024,  
17 community forum; met with Department officials, Fish and Game Commissioners, a Los Angeles  
18 County Supervisor, and State Senators; and provided public comment at Avalon City Council and  
19 Fish and Game Commission meetings, all related to the Restoration Project. (Petition, ¶¶ 35, 37,  
20 38, 39.)

21           As Petitioners allege in the Petition, Petitioners were fully aware of the Conservancy’s  
22 plan to remove deer from Santa Catalina Island, the Project, and the related CEQA statute of  
23 limitations. The Petition even erroneously states that the Petition is timely filed pursuant to  
24 CEQA Guidelines, section 15062, subdivision (d), which shows that Petitioners knew or should  
25 have known of CEQA’s 35-day statute of limitations. (Petition, ¶ 27.) Petitioners, however, failed  
26 to meet this deadline, and in missing that deadline, filed a Petition after the statute of limitations  
27 had run. In fact, Petitioners state that the First NOE was the NOE that supported the approval and  
28 issuance of the RMP. (Petition, ¶¶ 47, 48.) If Petitioners believed that the First NOE provided the

1 requisite approval to the Conservancy, it is not clear why Petitioners did not file the Petition by  
2 March 4, 2026, which was 35 days after the First NOE. Regardless, the latest arguable date for  
3 filing was March 9, 2026, and the Petition was filed on March 10, 2026. Missing this deadline is  
4 fatal to Petitioners’ challenge.

5 Statutes of limitations—let alone unusually strict limitations statutes, such as CEQA’s—  
6 do not create any space for the “surprising notion” that a “filing deadline can be complied with by  
7 filing sometime after the deadline falls due”; that “notion” is one “without limiting principle.”  
8 (See *Locke, supra*, 471 U.S. at p. 101.) Courts regularly dismiss CEQA challenges because of  
9 untimeliness. (See *Alliance for the Protection of the Auburn Community Environment v. County*  
10 *of Placer* (2013) 215 Cal.App.4th 25, 28-29 (*Alliance*); *Stockton, supra*, 135 Cal.App.4th at pp.  
11 1122–1123.) Further, California courts dismiss filings as untimely even when just a day late.  
12 (See, e.g., *Dobarro v. Kim* (2025) 116 Cal.App.5th 158, 161; *Smith v. City & County of San*  
13 *Francisco* (1997) 68 Cal.App.3d 227, 229; *Edgington v. County of San Diego* (1981) 118  
14 Cal.App.3d 39, 45.) Petitioners’ challenge to the Department’s NOEs was untimely. The  
15 demurrer should be sustained.

## 16 **II. THE DEMURRER SHOULD BE SUSTAINED WITHOUT LEAVE TO AMEND**

17 The CEQA statute of limitations does not have any flexibility nor does it provide for an  
18 extension of the limitation period. (*Alliance, supra*, 215 Cal.App.4th at p. 32.) Because there are  
19 no facts which Petitioners could allege that would make their filing timely, the demurrer should  
20 be sustained without leave to amend.

## 21 **III. THERE IS NO RELIEF AVAILABLE UNDER CCP SECTION 473**

22 In the event Petitioners express an intent to file a separate motion pursuant to Code of  
23 Civil Procedure section 473, Respondent provides the following argument to support the  
24 conclusion that relief under Code of Civil Procedure section 473 is unavailable here.

25 In some instances, a party can file a motion that seeks relief on the grounds of mistake or  
26 excusable neglect, and that position might be argued in the current matter. (Code Civ. Proc.,  
27 § 473.) Case law, however, has held that such relief is not available in the case of a CEQA  
28 petition that is untimely filed.

1 The California Supreme Court has stated that “section 473, subdivision (b) generally [does  
2 not] apply to dismissals attributable to a party’s failure to comply with the applicable limitations  
3 period in which to institute an action, whether by complaint [citations] or by writ petition  
4 [citation].” (*Maynard v. Brandon* (2005) 36 Cal.4th 364, 372.) The *Alliance* court also determined  
5 that statutes of limitations are, “of necessity, adamant rather than flexible in nature.” (*Alliance*,  
6 *supra*, 215 Cal.App.4th at p. 32.) According to the court, “[i]f the Legislature desires to allow  
7 some flexibility in a statute of limitations, it expressly provides for an extension of the limitations  
8 period on a showing of good cause. . . . If the Legislature is silent about such a good cause  
9 extension, the court infers that the Legislature did not intend such an extension on the grounds of  
10 good cause or under section 473. [Citation.]” (*Ibid.*) Ultimately, the *Alliance* court determined  
11 that there is no support in statute or case law for the argument that Code of Civil Procedure  
12 section 473 may be used to obtain relief from an untimely filed CEQA petition. (*Id.* at p. 34.)

13 Therefore, any potential argument Petitioners might make regarding mistake,  
14 inadvertence, or neglect is not applicable here and should not be given any credence.

### 15 CONCLUSION

16 For the reasons discussed above, the Department requests that the Court sustain its  
17 demurrer to Petitioners’ entire Petition without leave to amend.

18 Dated: May 15, 2026

19 Respectfully submitted,

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SA2026301204  
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**DECLARATION OF SERVICE BY E-MAIL**

**Case Name:** Safari Club International, et al. v. California Department of Fish and Wildlife, et al.

**Case No.:** 26STCP00987

I declare:

I am at least 18 years of age and not a party to this matter. I am employed in the Office of the Attorney General of the State of California. My business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013-1230, County of Los Angeles. My electronic service address is [beatriz.davalos@doj.ca.gov](mailto:beatriz.davalos@doj.ca.gov).

On May 15, 2026, I electronically served the **MEMORANDUM IN SUPPORT OF RESPONDENT'S DEMURRER TO PETITIONERS' PETITION FOR WRIT OF MANDATE** by emailing it to the following individuals:

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*Attorneys for Real Party in Interest  
Catalina Island Conservancy*

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct, and that this declaration was executed on May 15, 2026.

Beatriz Davalos  
\_\_\_\_\_  
Declarant

  
\_\_\_\_\_  
Signature